IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

W.P.Nos.23901 of 2004, 23995 of 2004 and 23989 of 2004

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WRIT PETITION NO : 23901 of 2004

Between:

Smt. N. Anitha, W/o. Laxman,
R/o. Village Jalalpur, Mandal & district Nizamabad.

..... PETITIONER

AND

The Revenue Divisional Officer, Nizamabad, District Nizamabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned Order Passed by the Respondent/Revenue Divisional Officer, Nizamabad, in Proceedings No.B3/1713/2004, Dated 18-05-2004 in suspending the petitioner's Fair Price Shop Dealership and authorisation of Villge Jalalpur, Mandal and district Nizamabad as illegal, arbitrary, not bonafide and violation of principles of Natural Justice and consequently set-aside the said supspension order in the interest of justice.

Counsel for the Petitioner: MR.S.BHOOMA GOUD

Counsel for the Respondent: GP FOR CIVIL SUPPLIES

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WRIT PETITION NO : 23995 of 2004

Between:

N.Krishna Murthy, S/o.Narayana,
Shanigaram vill, Nallabelly (M), Warangal Dist.

..... PETITIONER

AND

1 The Joint Collector, (C.S) Warangal, Warangal District.
2 The Revenue Divisional officer, Narasampet, Warangal District.
3 The Mandal Revenue officer, Nallabelly, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the order dated 4-8-2004 in Appeal No.12 of 2004 passed by the 1st respondent and to declare the order dated 2-7-2004 in order No.E/768/2004 passed by the 2nd respondent also to declare the inaction of the 2nd respondent in not completing the enquiry as directed by the 1st respondent vide order dated 4-8-2004 as illegal and arbitrary.

Counsel for the Petitioner: MR.A.PRABHAKAR RAO

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

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WRIT PETITION NO : 23989 of 2004

Between:

Samula Pulla Reddy S/o Ram Reddy
Raghunadhapalem Villge, Matampalli Mandal Nalgonda

District.

..... PETITIONER

AND

1 The Revenue Divisional Officer, Miryalguda, Nalgonda District
2 the Mandal Revenue Officer, Mattampally Mandal, Nalgonda District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ order or Direction more particularly one in the nature of Writ of mandmaus, declaring the action of the 1st respondent in initiating proceedings under the provisions of A.P. State Public Distribution system Control Order, 2001 and in initiating proceedings NO. E2/1842/2004 dt 24-6-2004 and 7/2004 as illegal and arbitrary and consequently set a side the same and direct the respondents to permit the petitioner to function as Fair Price Shop Dealer of Raghunadhapalem Village, Mattampally Mandal, Nalgonda District and to grant such other relief or reliefs as this Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.PALLENAGESWAR RAO

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following COMMON ORDER:

In these three writ petitions, the petitioners are dealers of fair price shops. Their grievance is that though their authorisations were suspended by the respective Revenue Divisional Officers several months back, no steps were taken in the matter of passing final orders. In some cases, it is alleged that even show cause notices were not issued. They seek revocation of suspension, placing reliance on the Judgment of this Court in **JOINT COLLECTOR, KURNOOL v A.NEELIMA.**

Learned counsel for the petitioners submit that there is no justification for continuing the orders of suspension for such a long time.

Learned Government Pleader for Civil Supplies, on the other hand, submits that the revocation of suspension on expiry of 90 days is not a matter of course and that even according to the Judgment of the Division Bench of this Court, it is only when there is a persistent lapse on the part of the appointing authority that the order of suspension shall be revoked.

The petitioners are fair price shop dealers. Their authorisations were suspended on one ground or the other. This Court is not concerned with the merits of the matter at this stage. It is not in dispute that though several months have elapsed ever since the date of order of suspension, the appointing authorities have not chosen to pass final orders. A Division Bench of this Court in the case referred to above held that the continued suspension of a dealership cannot be sustained and it was held that if no orders have been passed within 90 days, the dealership deserves to be restored. If the delay is on account of non-cooperation of a dealer, he cannot be extended the benefit of the ratio of the said Judgment. Though time was granted to the learned Government Pleader to ascertain as to whether any extraordinary circumstances, causing delay, attributable to the petitioners exist for such a delay, nothing is forthcoming.

Having regard to the facts and circumstances of the case, the writ petitions are allowed and the orders of suspension passed against the petitioners are set aside. It is, however, left open to the respective Revenue Divisional Officers, to pass appropriate orders against the petitioners on the basis of the record and after considering the show cause notice as well as the explanation that may be offered by the petitioners. No order as to costs.

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27-12-2004

Note: Issue C.C. by three days

(B/o)

kdl

To

1 The Revenue Divisional Officer, Nizamabad, District Nizamabad.

2 The Joint Collector, (C.S) Warangal, Warangal District.
3 The Revenue Divisional officer, Narasampet, Warangal District.
4 The Mandal Revenue officer, Nallabelly, Warangal District.

5 The Revenue Divisional Officer, Miryalguda, Nalgonda District
6 The Mandal Revenue Officer, Mattampally Mandal, Nalgonda District.

7 Two C.Cs. to the Government Pleader for Civil Supplies, High Court Buildings, A.P., Hyderabad, (OUT).

8 Two C.D. Copies.